

# CITY OF MUSKEGON

## CITY COMMISSION MEETING

**JUNE 12, 2012**

**CITY COMMISSION CHAMBERS @ 5:30 P.M.**

### **MINUTES**

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, MI at 5:30 p.m., Tuesday, June 12, 2012.

Mayor Warmington opened the meeting with a prayer from Pastor Josh Dear from the Lakeside Baptist Church after which the Commission and public recited the Pledge of Allegiance to the Flag.

#### **ROLL CALL FOR THE REGULAR COMMISSION MEETING:**

Present: Mayor Stephen Warmington, Vice Mayor Stephen Gawron, Commissioners Eric Hood, Lawrence Spataro, Willie German, Sue Wierengo, and Byron Turnquist, and City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Ann Marie Cummings.

#### **2012-45 HONORS AND AWARDS:**

##### **A. Recognition of Spring 2012 Citizen's Academy Graduates.** PUBLIC SAFETY

Public Safety Director Jeff Lewis read the resolution and thanked the 2012 Citizen's Police Academy for their faithful attendance, completion and graduation from the ten week academy.

#### **2012-46 CONSENT AGENDA:**

##### **A. Approval of Minutes.** CITY CLERK

SUMMARY OF REQUEST: To approve minutes of the May 22<sup>nd</sup> City Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

##### **B. Environmental Program Mowing and Trash Clean-up Contract.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The contract for mowing of lots and trash clean up of public and private properties previously held by Freelance Enterprises Inc. had

expired on March 31, 2012. A request for bids was advertised and four companies placed bids. Freelance Enterprises of Muskegon Township is the low bidder for a three-year agreement.

FINANCIAL IMPACT: None, funds budgeted for this activity.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve a three-year contract with Freelance Enterprises Inc. and to authorize the Mayor and City Clerk to sign the agreements, for the mowing of lots and trash removal on properties located within the City.

**C. City – MDOT Agreement for the Reconstruction of Sherman Blvd. from Lincoln to Estes.** ENGINEERING

SUMMARY OF REQUEST: Approve the contract with MDOT for the reconstruction of Sherman Blvd. from Lincoln to Estes, and approve the resolution authorizing the Mayor and the City Clerk to sign the contract.

FINANCIAL IMPACT: MDOT's participation is limited to the approved federal funds of \$481,000. The estimated total construction cost is \$1,110,500 plus engineering cost.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve the contract and resolution authorizing the Mayor and Clerk to sign both.

**D. Approval of Contractor for New Construction of House at 605 Jackson.** COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the contract with DeRose Builders Inc, 7786 Wiczer Drive, Whitehall, for the new construction of a house located at 605 Jackson for the cost of \$117,446.

The property was purchased with Neighborhood Stabilization funds from the Michigan State Housing Development Authority, and HOME funds from HUD will be used for the construction. After the new construction is completed, the home will be marketed to sell to an eligible homebuyer with an annual income less than 80 percent of the area median income. The City received six bids.

FINANCIAL IMPACT: Funding for the project has been approved in our current budget (2011-2012) from the HOME Investment Partnership funds.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval for the Community and Neighborhood Services office to prepare an agreement with DeRose Builders and direct the Mayor and Clerk to sign the contract.

**E. Liquor License Request from Top Spin, Inc., 2536 Henry.** CITY CLERK

SUMMARY OF REQUEST: The Liquor Control Commission is seeking local recommendation on a request from Top Spin, Inc., of 2536 Henry Street to transfer ownership of Escrowed 2011 Class C-SDM Licensed Business with Sunday Sales Permit (PM), Dance-Entertainment Permit, Outdoor Service (1 Area) and Specific Purpose Permit (Food) from Team Red Dawn, LLC.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: All departments are recommending approval.

**F. Fireworks Display Permit for Muskegon Country Club.** CITY CLERK

SUMMARY OF REQUEST: Melrose Pyrotechnics, Inc. is requesting approval of a fireworks display permit for July 4, 2012, at the Muskegon Country Club, 2801 Lakeshore Drive. Fire Marshall Metcalf will inspect the fireworks on the day of the event.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval contingent on inspection of the fireworks and approval of insurance.

**G. Polling Sites Relocation.** CITY CLERK

SUMMARY OF REQUEST: Building closures, redistricting, and ADA compliance have forced the City to move polling locations. Staff proposes to move the following:

- Bluffton School (closure) to Great Lakes Naval Museum
- McLaughlin School (closure) to City Hall
- Hackley Administration Building (ADA Compliance) to City Hall
- Nelson School (redistricting) to Department of Public Works

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: To approve the polling location changes as outlined above.

STAFF RECOMMENDATION: To approve the polling location changes as outlined above.

COMMITTEE RECOMMENDATION: The Election Commission approved the changes as stated at their June 7<sup>th</sup> meeting.

**H. Approval of Title Company for Community and Neighborhood Services.**  
COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve Lighthouse Title, Inc., to be used by the

City of Muskegon for the title work and closing agency for the CNS Housing program.

FINANCIAL IMPACT: Fees paid from proceeds of sale or project budgets.

BUDGET ACTION REQUIRED: None.

STAFF RECOMEDATION: To approve Lighthouse Title, Inc., for Community and Neighborhood Services Title Agency needs.

**Motion by Vice Mayor Gawron, second by Commissioner Wierengo to approve the Consent Agenda as presented.**

**ROLL VOTE: Ayes: Spataro, German, Gawron, Wierengo, Turnquist, Warmington, and Hood**

**Nays: None**

***MOTION PASSES***

**2012-47 PUBLIC HEARINGS:**

**A. 2012-13 Budget. FINANCE**

SUMMARY OF REQUEST: The City Commission may take action to adopt the 2012-13 budget with whatever changes or adjustments it deems necessary. City ordinance requires the budget be adopted by the second regular City Commission meeting in June.

FINANCIAL IMPACT: The budget sets forth the priorities and overall financial plan for operations in the year 2012-13.

BUDGET ACTION REQUIRED: Adoption of the budget resolution provides the legal appropriation authority necessary for City departments to conduct operations in 2012-13.

STAFF RECOMMENDATION: Receive public comments. Upon closing the public hearing, the City Commission may decide to adopt the budget.

The Public Hearing opened to hear and consider any comments from the public. Comments were heard from Joshua Eldenbrady, 1336 Spring Street; Margaret Roles, 1350 W. Hackley; Dorothy Davidge, 1350 W. Hackley; Roger Nye, 1495 Westwood Circle; Marion Oleocarchek, 690 W. Southern; Dan Mills, 1817 Mills; Kay Windget, 1350 W. Hackley; Mark Evans, 1899 Barnes Road; Phyllis Hallberg, 1350 W. Hackley; and Gail Funk, 1350 W. Hackley

**Motion by Commissioner Spataro, second by Commissioner German to close the Public Hearing.**

**ROLL VOTE: Ayes: German, Gawron, Wierengo, Turnquist, Warmington, Hood, and Spataro**

**Nays: None**

### **MOTION PASSES**

**Motion by Commissioner Spataro, second by Vice Mayor Gawron to adopt the 2012-2013 Budget as presented.**

**ROLL VOTE: Ayes: Gawron, Wierengo, Turnquist, Warmington, Hood, Spataro, and German**

**Nays: None**

### **MOTION PASSES**

**Motion by Commissioner Spataro, second by Commissioner Wierengo to direct staff to provide for the June 26<sup>th</sup> Commission Meeting a proposal for funding the Senior Transit to the end of the year and ballot proposal language to bring to the citizens of the City of Muskegon the opportunity to vote to fund this as a regularly operated program.**

**ROLL VOTE: Ayes: Wierengo, Turnquist, Warmington, Hood, Spataro, German, and Gawron**

**Nays: None**

### **MOTION PASSES**

#### **2012-48 NEW BUSINESS:**

##### **A. Proposed Betten Development Agreement Changes/Promissory Note with BRA. CITY MANAGER**

SUMMARY OF REQUEST: The City's Brownfield Redevelopment Authority (BRA) is obligated to reimburse Betten Automotive Group for eligible costs incurred in the redevelopment of their Henry Street project plus 6.5% interest. Total reimbursable costs (plus interest to date) amount to \$1,681,590. Under terms of the original development agreement, these costs would be paid by the BRA over several years as tax increment revenues were collected. Interest would continue to accrue on the unpaid balance.

As described more fully, this proposal is for the City to loan the BRA \$1.66 million to pay off Betten now. The benefits are as follows:

- Benefit to BRA: reduce interest costs from 6.5% to 3.25% payable to City instead of developer
- Benefit to City: rate of return higher than can be achieved on investments like CD's or US Treasuries
- Benefit to Developer: cash received up front to help facilitate further development of Henry Street corridor (also benefits the City and BRA)

The City would be repaid over thirteen years (or sooner) at a rate of 3.25% from BRA tax increment proceeds.

FINANCIAL IMPACT: The City's loan to the BRA would be carried equally by the following City funds having adequate cash reserves: General Insurance Fund, Equipment Fund and Cemetery Perpetual Care Fund. The 3.25% interest is much better than can be earned on CD's, US Treasuries or other investment instruments.

BUDGET ACTION REQUIRED: The BRA budget will be amended to reflect loan payments to the City instead of reimbursements to developer.

STAFF RECOMMENDATION: 1.) Approval of proposed development agreement changes and, 2.) execution of the related promissory note between the City and the BRA.

COMMITTEE RECOMMENDATION: The BRA met on May 29<sup>th</sup> and approved the proposed development agreement changes and promissory note.

**Motion by Vice Mayor Gawron, second by Commissioner Hood to approve the proposed development agreement changes with Betten Development and execute the related promissory note between the City and the BRA.**

**ROLL VOTE: Ayes: Turnquist, Warmington, Hood, Spataro, German, Gawron, and Wierengo**

**Nays: None**

***MOTION PASSES***

**B. Engineering Services Agreement for Williams Street Storm Outlet.**  
ENGINEERING

SUMMARY OF REQUEST: Authorize staff to enter into an engineering services agreement with Flies & Vandenbrink Engineering out of Muskegon to perform an emergency survey, design and permitting project to replace/repair a 54" storm sewer outlet at the northerly end of Williams Street just north of White Street for an estimated cost of \$9,800.

FINANCIAL IMPACT: The engineering cost of \$9,800 at this time.

BUDGET ACTION REQUIRED: This project will have to be added to the 2012-2013 budget.

STAFF RECOMMENDATION: Authorize staff to enter into an agreement with F&V engineering. This recommendation was arrived at due to the urgency of the current condition of the storm sewer outlet and complexity of the project.

**Motion by Commissioner Turnquist, second by Vice Mayor Gawron to authorize staff to enter into an agreement with Flies & Vandenbrink Engineering.**

**ROLL VOTE: Ayes: Warmington, Hood, Spataro, German, Gawron, Wierengo, and Turnquist**

**Nays: None**

**MOTION PASSES**

**C. Fireworks Display Permit for Community 4<sup>th</sup> of July Celebration.** CITY CLERK

SUMMARY OF REQUEST: Fruitport Lions Charities Group is requesting approval of a fireworks display permit for July 4<sup>th</sup> at Heritage Landing. Fire Marshall Metcalf has reviewed the request and recommends approval contingent on inspection of the fireworks.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval contingent on all requirements being met. We also request that the late fees for the fireworks permit and special event be waived.

**Motion by Vice Mayor Gawron, second by Commissioner German to approve the fireworks display permit for the community on the 4<sup>th</sup> of July contingent on all requirements being met and that the late fees for the fireworks permit and special event fee be waived.**

**ROLL VOTE: Ayes: Hood, Spataro, German, Gawron, Wierengo, Turnquist, and Warmington**

**Nays: None**

**MOTION PASSES**

**D. Accept the Resignation of Mayor Warmington.**

**Motion by Commissioner Spataro, second by Vice Mayor Gawron to accept the resignation from Mayor Warmington effective June 30.**

**ROLL VOTE: Ayes: Spataro, German, Gawron, Wierengo, Turnquist, and Hood**

**Nays: None**

**Abstain: Warmington**

**MOTION PASSES**

**PUBLIC PARTICIPATION: Public comments received.**

**2012-49 CLOSED SESSION: Attorney/Client Communication and Pending Litigation.**

**Motion by Commissioner Spataro, second by Commissioner Wierengo to go into Closed Session to discuss attorney/client communication and pending litigation.**

**Ayes: All Ayes**

**Nays: None**

**MOTION PASSES**

**Motion by Commissioner Spataro, second by Vice Mayor Gawron to come out of Closed Session.**

**Ayes: All Ayes**

**Nays: None**

***MOTION PASSES***

**ADJOURNMENT:** The City Commission Meeting adjourned at 7:35 p.m.

Respectfully submitted,

Ann Marie Cummings, MMC  
City Clerk